

HOUSE BILL No. 1071

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.

Synopsis: Utility infrastructure projects. Authorizes the utility regulatory commission (IURC) to determine the applicability of local zoning requirements to certain utilities. Requires the economic development corporation, in conjunction with the IURC, to allow the recovery of reasonable and necessary costs incurred by a public utility in connection with a green infrastructure project that provides electric or gas service to an alternate energy production facility.

Effective: July 1, 2010.

Murphy

January 5, 2010, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.

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Introduced

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL No. 1071

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-22.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]:

4 **Chapter 22.7. Utility Zoning Requirements**

5 **Sec. 1. As used in this chapter, "applicant" means a utility that**
6 **applies for a certificate of special exception under section 8 of this**
7 **chapter.**

8 **Sec. 2. As used in this chapter, "certificate" means a certificate**
9 **or other document that:**

10 (1) **is issued to a utility by the commission or the Federal**
11 **Energy Regulatory Commission; and**

12 (2) **authorizes the utility to construct, build, maintain,**
13 **rehabilitate, or operate facilities or other structures related to**
14 **the business of the utility.**

15 **Sec. 3. As used in this chapter, "commission" refers to the**
16 **Indiana utility regulatory commission created by IC 8-1-1-2.**

17 **Sec. 4. As used in this chapter, "division" refers to the pipeline**



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safety division of the commission established by IC 8-1-22.5-2.

Sec. 5. (a) As used in this chapter, "pipeline company" means a person (as defined in IC 8-1-22.5-1(e)) that:

- (1) constructs; or
 - (2) proposes to construct;
- a pipeline (as defined in IC 8-1-22.5-1(c)).

(b) The term includes any:

- (1) employee;
- (2) agent;
- (3) contractor;
- (4) subcontractor; or
- (5) other person;

that is employed by, or acts on behalf of, a pipeline company.

Sec. 6. As used in this chapter, "utility" means:

- (1) a pipeline company that transports gas in or through Indiana, including a pipeline company that has applied for and received a certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission under 15 U.S.C. 717f authorizing the pipeline company to build and operate a pipeline project in or through Indiana; or
- (2) any of the following that furnishes retail electric or gas service to the public:

(A) A public utility (as defined in IC 8-1-2-1(a)).

(B) A municipally owned utility (as defined in IC 8-1-2-1(h)).

(C) A corporation organized under IC 8-1-13.

(D) A corporation organized under IC 23-17-1 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

Sec. 7. As used in this chapter, "zoning requirement" means a zoning ordinance, regulation, or other requirement adopted or imposed by a political subdivision or other local governmental unit.

Sec. 8. (a) A utility may apply to the division for an order of special exception from one (1) or more zoning requirements. A utility may submit an application under this subsection before a zoning requirement is enforced against the utility.

(b) The commission shall determine the form of the application. The application must require the following information:

- (1) A copy of the certificate issued to the applicant.
- (2) A certified copy of each zoning requirement for which the applicant is seeking review.

(c) Upon receipt of an application, the commission shall review

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the application for completeness. The commission may request additional information from the applicant as needed.

Sec. 9. (a) Not more than ten (10) days after the date of the application, the commission shall determine whether, with respect to an applicant, a zoning requirement conflicts with the terms of the certificate. If the commission determines that a zoning requirement conflicts with the terms of the certificate, the commission shall immediately:

(1) approve the application; and

(2) issue the applicant an order of special exception.

The order of special exception must specify the zoning requirements from which the applicant is exempt.

(b) An order of special exception is valid for the period during which the certificate issued to the applicant is effective.

(c) An order of special exception supersedes any zoning requirements that conflict with the terms of the order of special exception.

(d) The issuance of an order of special exception may not be appealed except by the political subdivision or other local governmental unit that adopted or imposed the zoning requirement that is the subject of the order of special exception.

Sec. 10. The commission may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 2. IC 8-1-38 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 38. Green Infrastructure Incentive Program

Sec. 1. As used in this chapter, "alternate energy production facility" has the meaning set forth in IC 8-1-2.4-2(b).

Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 3. As used in this chapter, "corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

Sec. 4. As used in this chapter, "green infrastructure project" means the construction, addition, extension, or improvement of a public utility's plant or equipment to:

(1) provide electric or gas service to; or

(2) receive electric or gas service from;

an alternate energy production facility.

Sec. 5. As used in this chapter, "public utility" has the meaning set forth in IC 8-1-2-1(a)

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1 **Sec. 6. (a) The corporation, in conjunction with the commission,**
 2 **shall encourage green infrastructure projects by allowing the**
 3 **timely recovery of reasonable and necessary costs incurred by a**
 4 **public utility in connection with a green infrastructure project.**

5 **(b) In allowing the recovery of costs under subsection (a), the**
 6 **corporation, in conjunction with the commission, shall determine**
 7 **the following:**

8 **(1) The amount of costs that the public utility may recover.**

9 **(2) The method by which the public utility may recover costs.**

10 **(3) The schedule under which the public utility may recover**
 11 **costs.**

12 **Sec. 7. (a) A public utility must submit an application to the**
 13 **corporation for approval of a green infrastructure project for**
 14 **which the public utility seeks to recover costs under section 6 of**
 15 **this chapter.**

16 **(b) The corporation shall prescribe the form for an application**
 17 **submitted under this section.**

18 **(c) Upon receipt of an application under subsection (a), the**
 19 **corporation and the commission shall jointly review the application**
 20 **for completeness. The corporation or the commission may request**
 21 **additional information from the applicant as needed.**

22 **(d) If an application submitted under subsection (c) is complete,**
 23 **the corporation shall approve the application not later than sixty**
 24 **(60) days after the date of the application. If the corporation does**
 25 **not act on a completed application within sixty (60) days after the**
 26 **date of the application, the application is considered approved.**

27 **Sec. 8. The corporation and the commission may adopt joint**
 28 **rules to implement this chapter.**

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